



STATE OF CALIFORNIA

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March 10, 2004

Honorable Dale F. Flippin
County of Nevada
Office of the Assessor
950 Maidu Avenue
Nevada City, CA 95959-8600

ATTN:

Re: Qualification for the Disabled Veterans' Exemption as of the Lien Date.

Dear _____ :

This is in response to your inquiry of February 2, 2004 to Assistant Chief Counsel Kristine Cazadd regarding the qualification of a claimant for the disabled veterans' exemption as of lien date 2002. As discussed in more detail below, it is our opinion that Mr. S _____ does not meet the qualifications for the disabled veterans' exemption as of the January 1, 2002 lien date, since Mr. S _____ did not have a 100% disability rating as of that date.

FACTUAL BACKGROUND

Based upon the information that you have provided to us, Mr. S _____ has received notice of a 100% disability compensation rating from the Department of Veterans Affairs with an effective date of July 1, 2002. You have posed the following question: Does Mr. S _____ meet the qualifications for the disabled veterans' exemption as of the January 1, 2002 lien date?

LAW AND ANALYSIS

Pursuant to Revenue and Taxation Code section 401.3, "[t]he assessor shall assess all property subject to general property taxation on the lien date as provided in Articles XIII and XIII A of the Constitution and any legislative authorization thereunder." [Emphasis added.] Consistent with this mandate, Revenue and Taxation Code section 405, subdivision (a), provides that "[a]nnually, the assessor shall assess all the taxable property in his county, except state-assessed property, to the persons owning, claiming, possessing, or controlling it on the lien date." [Emphasis added.]

Unless specifically exempt, all property in California is subject to property taxation. California Constitution, article XIII, section 1; Revenue and Taxation Code section 201. In general, the taxable status of property, for purposes of property taxation, is determined as of the lien date.¹ Property is granted an exemption for the upcoming fiscal year if it meets all of the requirements for that exemption on the lien date. In California, the lien date is January 1st, the date in which property taxes are levied; that is, the date on which property taxes for that year become a lien on the property pursuant to Revenue and Taxation Code section 2192. Property may be assessed to the individual who is the property owner on the lien date (i.e., the assessee).

An example of the above can be seen in a 1997 Court of Appeal decision, *Seegmiller v. County of Nevada* (1997) 53 Cal.App.4th 1397, in which a business owner contended that his personal property was nontaxable as of the date that he moved it out of state. Therefore, he claimed that the property taxes should have been prorated for the part of the fiscal year that the property was in the state. The court held that the county's right to taxes became fixed as of January 1, 1994, the lien date of the fiscal year for which the taxes were levied.

The assessment concept before us then is that property taxes are assessed and accrue annually as of the January 1st lien date, to the owner of record as of that date, and payable during the upcoming July 1st through June 30th fiscal year. For a claimant to qualify for the disabled veterans' exemption, or for any other exemption, on the regular assessment roll, that individual must be the owner of record as of the lien date when the liability for taxes attaches. Further, that individual must also meet all of the qualifications for the exemption sought as of the lien date as well.

Based upon the October 29, 2003 letter from the Department of Veterans Affairs, Mr. S's 100% disability rating was not effective until July 1, 2002. To be eligible for the disabled veterans' exemption on the regular assessment roll for the July 1, 2002 to June 30, 2003 fiscal year, Mr. S must meet all of the qualifications for the exemption under Revenue and Taxation Code section 205.5, including the requirement of a 100% disability rating under subdivision (e), as of the lien date for which the exemption is claimed. On January 1, 2002, Mr. S owned a home and resided in it as his personal residence, but did not meet the 100% disability-rating requirement as of the 2002 lien date and, therefore, does not qualify for the disabled veterans' exemption for that year (i.e., the July 2002 to June 2003 fiscal year). However, Mr. S will meet the subdivision (e) requirement for the disabled veterans' exemption as of the following lien date, January 1, 2003, and succeeding fiscal years.

The views expressed in this letter are advisory in nature only; they represent the analysis of the legal staff of the Board of Equalization based on present law and the facts set forth herein.

¹ "The entire system of taxation in the state of California plainly contemplates the existence of property liable to be assessed for taxes, and that its assessment, at whatever date actually made, shall relate to some fixed period of time, and that the taxable status of the property is to be determined by its condition on that day." *Dodge v. Nevada National Bank* (1901) 109 F. 726, 731; *East Bay Municipal Utility District v. Garrison* (1923) 191 Cal. 680.

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Very truly yours,

/s/ Anthony S. Epolite

Anthony S. Epolite
Senior Tax Counsel

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cc: Mr. David Gau, MIC:63
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Mr. Stanley Siu, MIC:61
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Ms. Kristine Cazadd, MIC:82